

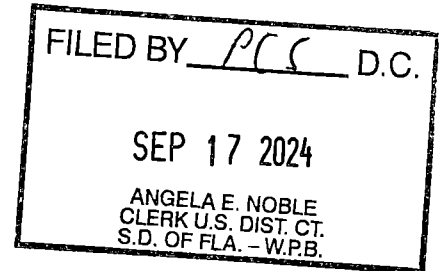
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Civil Case Number: _____

Roderick Thomas
(Write the full name of the plaintiff)

vs.
MICHAEL ROSARIO (02020)
WEST PALM BEACH POLICE OFFICER

(Write the full name of the defendant/s in this case)



COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. Party Information

A. Plaintiff: Roderick Thomas

Address: 1348 MADISON CHASE APT #3 WPB. FL 33411

Inmate/Prison No.: B05435

Year of Birth: 79 (Do not include day or month, pursuant to Fed. R. Civ. P 5.2)

(Write your name, address and prison/inmate number, if applicable)

vs. Roderick Thomas

B. Defendant: MICHAEL ROSARIO Defendant: _____

Official Position: Patrol Officer Official Position: _____

Place of Employment: West Palm Beach Police Department Place of Employment: _____

(Write the full name of each defendant, official position and place of employment. Attach a separate page if you need additional space for additional defendants.)

II. Statement of Claim

Briefly describe the facts of your case. Describe how each defendant is involved, names of other persons involved, and dates and places. Each claim should be stated in a separately numbered paragraph. Please use short and plain statements, with separately numbered paragraphs indicating why the relief requested should be granted. Do not include legal arguments or cite cases or statutes. Attach additional pages, if necessary.

On Feb 7 Ofc ROSARIO wrote in his PROBABLE CAUSES AFFIDAVIT that he was coming down 600 block of 39th St traveling east bound, when he observed the defendant fail to stop at a stop sign. However, Ofc ROSARIO testified at a suppression hearing that he was in the alley way traveling North-South when he seen the plaintiff commit the above infraction, which his body cam did not capture nor document. Ofc ROSARIO was under oath when he showed a blatant disregard for the truth in his probable causes affidavit.

III. Relief Requested

Briefly state what you are requesting from the Court (what do you want the Court to do). Do not include legal arguments or cite cases or statutes. Attach additional pages, if necessary.

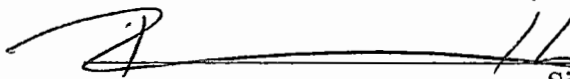
THE Plaintiff ask the court to award him \$350K in punitive damages, \$350K for violating of the Plaintiff due process rights, \$350K in loss wages, \$350K in compensatory damages, \$350K in continuing damages, 90K in discretionary damages, AND \$350K in emotional-distress damages.

IV. Jury Demand

Are you demanding a jury trial?


☒ Yes ☐ No

Signed this 17th day of September, 20 24


Signature of Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 9-17-24


Signature of Plaintiff

OBT Number		PROBABLE CAUSE AFFIDAVIT		1. Arrest 2. N.T.A.		3. Request for Warrant 4. Request for Capias		1 JUVENILE	
Agency ORI Number FL 0500800		Agency Name WEST PALM BEACH POLICE		Agency Report Number 9 4 2021-0001947					
Charge Type: Check as many as apply: <input checked="" type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony		<input type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor		<input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other		Special Notice:			
Name (Last, First, Middle) THOMAS, RODERICK GERMAINE		Alias		Race B		Sex M		Date of Birth 07/06/1979	
Charge Description 790.23(1A) POSSESS WEAPON OR AMMO BY CONVICTED FELON		Charge Description 790.07(2) POSSESSION OF A FIREARM DURING FELONY							
Charge Description 893.13(6)(A) COCAINE POSSESSION OF COCAINE		Charge Description 893.13(6)(A) HEROIN POSSESSION OF HEROIN							
Victim's Name (Last, First, Middle) State Of Florida		Local Address (Street, Apt. Number) (City) (State) (Zip)		Phone		Address Source		Date of Birth	
Business Address (Name, Street) (City) (State) (Zip)				Phone		Occupation			
<p>The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law.</p> <p>The Person taken into custody...</p> <p><input checked="" type="checkbox"/> committed the below acts in my presence. <input type="checkbox"/> was observed by WRITER who told STATE that he/she saw the arrested person commit the below acts.</p> <p><input type="checkbox"/> confessed to admitting to the below facts. <input checked="" type="checkbox"/> was found to have committed the below acts, resulting from my (described) investigation.</p> <p>On the 7 day of February, 2021 at 04:33 (Specifically include facts constituting cause for arrest.)</p> <p>On Sunday February 7th, 2021 at approximately 0242 hours, I was operating my marked WFPD police vehicle (X2067), and driving east bound in the 600 block of 39th Street. While, I was traveling east bound on said street, I observed a black in color Mercedes Benz bearing Florida Tag: EVSM32 traveling east bound on 39th Street approaching Broadway Ave. I observed said vehicle fail to come to a complete stop at 39th Street and Broadway Ave. I conducted a traffic stop on said vehicle in regards of the traffic violation. The following events are what transpired:</p> <p>The vehicle in question pulled over at the BP gas station which is located at 4415 Broadway near one of the gas pumps. I then made contact with the driver and sole occupant of the vehicle who was later identified by Florida Drivers Licenses as Rodrick Thomas 07/06/1979. Upon speaking to Thomas, I informed him that he was stopped for not coming to a complete stop at the stop sign on 39th Street and Broadway Ave. I then asked for Thomas Florida drivers Licenses to which he complied and produced immediately. As I was speaking to Thomas my partner Officer N. Roberts signaled to me to have Thomas roll down the passenger window to the vehicle, he was driving. I asked Thomas to roll down the window to which at this point he refused to do so. Officer N. Roberts advised she was unable to see Thomas that well because of the tints that he had on his rental vehicle. Because of my partner being not being able to see Thomas from the passenger side and the possible officer safety risk it posed on scene, I made the decision to have Thomas step out of the vehicle and complete the traffic stop with Thomas out of the vehicle so that officers could have a clear view of his hands and person. When Thomas stepped outside of the vehicle he was wearing a sweater and what appeared to be pajama style pants. Thomas faced me when he got out of the vehicle I observed a bulge coming from Thomas left rib cage area. At first I thought the bulge was the handle of a knife concealed underneath his jacket. So I conducted a pat down to insure Thomas did not have a knife on him. When I began patting Thomas down, I felt the distinct shape of the handle of a small firearm near his left rib cage area. I then placed Thomas into</p>									
<p>SWORN AND SUBSCRIBED BEFORE ME</p> <p>MCGINLEY, ROBERT NOTARY PUBLIC / CLERK OF COURT / OFFICER (F.S.S. 117.10)</p> <p>02/07/2021 DATE</p> <p>SIGNATURE OF ARRESTING / INVESTIGATING OFFICER ROSARIO, MICHAEL (020209) 08-2021 NAME OF OFFICER (PLEASE PRINT)</p> <p>02/07/2021 DATE</p> <p>PAGE 1 of 2</p>									

COURT

STATE ATTORNEY

CENTRAL RECORDS

JAIL

CRIME ANALYSIS

P.I.O.

OBTS Number		PROBABLE CAUSE AFFIDAVIT		1. Arrest 2. N.T.A.		3. Request for Warrant 4. Request for Capias		1	JUVENILE
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C H A R G E S	Charge Description 893.13(6)(A) COCAINE POSSESSION OF COCAINE				Charge Description 893.13(6)(A) HEROIN POSSESSION OF HEROIN				
	Victim's Name (Last, First, Middle) State Of Florida				Race		Sex		Date of Birth
V I C T I M	Local Address (Street, Apt. Number) (City) (State) (Zip)				Phone		Address Source		
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<p>The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law.</p> <p>The Person taken into custody</p> <p><input checked="" type="checkbox"/> committed the below acts in my presence. <input checked="" type="checkbox"/> was observed by WRITER who told STATE that he/she saw the arrested person commit the below acts.</p> <p><input type="checkbox"/> confessed to admitting to the below facts. <input checked="" type="checkbox"/> was found to have committed the below acts, resulting from my (described) investigation.</p> <p>On the 7 day of February, 2021 at 04:33 (Specifically include facts constituting cause for arrest.)</p> <p>On Sunday February 7th, 2021 at approximately 0242 hours, I was operating my marked WFPD police vehicle (X2067), and driving east bound in the 600 block of 39th Street. While, I was traveling east bound on said street, I observed a black in color Mercedes Benz bearing Florida Tag: EVSM32 traveling east bound on 39th Street approaching Broadway Ave. I observed said vehicle fail to come to a complete stop at 39th Street and Broadway Ave. I conducted a traffic stop on said vehicle in regards of the traffic violation. The following events are what transpired:</p> <p>The vehicle in question pulled over at the BP gas station which is located at 4415 Broadway near one of the gas pumps. I then made contact with the driver and sole occupant of the vehicle who was later identified by Florida Drivers Licenses as Rodrick Thomas 07/06/1979. Upon speaking to Thomas, I informed him that he was stopped for not coming to a complete stop at the stop sign on 39th Street and Broadway Ave. I then asked for Thomas' Florida drivers Licenses to which he complied and produced immediately. As I was speaking to Thomas my partner Officer N. Roberts signaled to me to have Thomas roll down the passenger window to the vehicle, he was driving. I asked Thomas to roll down the window to which at this point he refused to do so. Officer N. Roberts advised she was unable to see Thomas that well because of the tints that he had on his rental vehicle. Because of my partner being not being able to see Thomas from the passenger side and the possible officer safety risk it posed on scene, I made the decision to have Thomas step out of the vehicle and complete the traffic stop with Thomas out of the vehicle so that officers could have a clear view of his hands and person. When Thomas stepped outside of the vehicle he was wearing a sweater and what appeared to be pajama style pants. Thomas faced me when he got out of the vehicle I observed a bulge coming from Thomas' left rib cage area. At first I thought the bulge was the handle of a knife concealed underneath his jacket. So I conducted a pat down to insure Thomas did not have a knife on him. When I began patting Thomas down, I felt the distinct shape of the handle of a small firearm near his left rib cage area. I then placed Thomas into</p>									
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	MCGINLEY, ROBERT NOTARY PUBLIC / CLERK OF COURT / OFFICER (F.S.S. 117.10) 02/07/2021 DATE				ROSARIO, MICHAEL (020721) NAME OF OFFICER (PLEASE PRINT) 02/07/2021 DATE				

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PAGE
1 of 2

III: Statement of Claim (Attachment)

AND, this in court testimony which contradicts each other. Cde
Rosario commented perjury. It should be noted that
this incident happen in 2021.

United States District Court
Southern District of Florida

Roderick Thomas
Plaintiff

State of Florida
v.
Respondent

Fourth Amendment Violation

Come now the plaintiff and respectfully
ask that this court review his probable
cause and determine if officer Rosario
committed perjury and as ground would
argue,

Facts of This Case

On February 7, 2021 at 2:42 AM
officer Rosario stopped the plaintiff
for a minor traffic violation. The
officer alleges that the stop was

based on him observing the plaintiff car failed to come to a complete stop at 39th street and Broadway, the plaintiff contend that this traffic violation never occurred.

In order to stop a vehicle lawfully, the officer must have observed a traffic infraction or traffic crime, BADEN v. STATE 174 So3d 494, Fla 4th D.C.A. 2015, WHREN v. United States 517 U.S. 806, or had a reasonable suspicion that a crime was about to or had occurred.

Allegedly officer ROSARIO in his suppression hearing testimony stated that he was patrolling in his vehicle in a north-south alleyway travelling southbound

when he observed this traffic violation, it should be noted that officer Rosario was under oath when he made this statement.

However in his probable cause Affidavit officer Rosario never mention being in AN ALLEYWAY, in fact in his probable cause Affidavit he stated that "he was driving east bound in the 600 block of 39th street", At no time does the officer mention that he was traveling south bound in a north-south Alleyway before coming into contact with the plaintiff. The plaintiff contend that officer Rosario committed perjury in

the suppression hearing and on his probable cause Affidavit, Officer Rosario's probable cause Affidavit contradicts his suppression hearing testimony.

Officer Rosario has no dash cam or body cam video to test the officer's representation of what happened for the most of five city block.

United States v. Martin, 15 F.2d 318, we have explicitly limited the FRANKS Rule to cases of perjurious or recklessly false statements or omission made by police.

When the Fourth Amendment demands a factual showing sufficient to comprise

PROBABLE CAUSE the obvious assumption is that there will be a truthful showing, here in the instant case officer showed a disregard for the truth in his probable cause affidavit and or in his suppression hearing testimony, officer ROSARIO PERJURIOUS statement and or affidavit violates FRANKS.

While the constitution prohibition of making perjurious or recklessly false statements, it require that they be truthful in the sense that the information put forth is believed, officer ROSARIO NEVER ONCE mention being in an

Allegway in his probable cause Affidavit, perjury is committed the moment that the person utter the perjurious statement.

The Supreme Court has held that the Constitution prohibits an officer from making perjurious or recklessly false statement or omissions in the information put forth to establish probable cause, FRANKS v. DELAWARE 438 U.S. 154, it require that they be truthful.

In LLOYD v. LEEPER 451 F. Supp 3d 1314, this court held, a warrant Affidavit violates the Fourth Amendment when it contains omission made intentionally or with a recklessly disregard for the accuracy of the Affidavit, Officer ROSARIO has shown

A complete disregard for the accuracy of his probable cause affidavit and in the process committed perjury. This method of law enforcement in using a false probable cause affidavit is outrageous police misconduct which violated the plaintiff right to due process.

Wiggins v Florida Department of Highway Safety and Motor Vehicles, 209 So3d 1168,
A circuit court applies the correct law by rejecting officer testimony as being competent, substantial evidence when that testimony is contrary to and refuted by objective real time video evidence. Here in the plaintiff case officer Rosario body

CAM video contradicted his probable cause Affidavit and his in court testimony, in both instances officer RESARIO WAS UNDER OATH WHEN HE COMMITTED PERJURY.

In Duke v. State 82 So3d 1155, based ON the video, the officer report AND the testimony from the officer himself, the county court concluded that the officer true motivation for the stop WAS EITHER the ALLEGED TAQ VIOLATION OR FAILURE TO MAINTAIN A SINGLE LANE, both of which the state conceded were NOT VALID bases for A stop.

THE PLAINTIFF ASK THAT THIS COURT REJECT THE OFFICER TESTIMONY AND HIS PROBABLE

cause Affidavit and find that the officer did in fact commit perjury, the plaintiff also ASK that this court hold officer ROSARIO accountable on two counts of perjury.

Fourth Amendment violation ARE subject to the exclusionary Rule, the plaintiff ASK that this court exclude all the evidence obtained and discharge the plaintiff from his conviction.

Respectfully Submitted
Roderick Thomas
D L

Certificate Of Service

I hereby certify that a true and correct copy
of this brief was furnish this 17th day of
September 2024 to all interested parties